



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON THE ACCESSIBILITY OF COMMUNICATIONS TECHNOLOGIES FOR THE 2020 BIENNIAL REPORT REQUIRED BY THE TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT

**Pleading Cycle Established
CG Docket No. 10-213**

Comment Date: March 30, 2020

I. Introduction

1. The Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) seeks comment in connection with its biennial report required by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).¹ The biennial report must be submitted to Congress by October 8, 2020.² We invite comment on compliance with statutory mandates for telecommunications and advanced communications services (ACS), equipment used with these services, and Internet browsers built into mobile phones, to be accessible to and usable by people with disabilities. Furthermore, we seek comment on the extent to which accessibility barriers still exist with respect to new communications technologies, and the effect of CVAA recordkeeping and enforcement requirements on the development and deployment of new communications technologies.³

II. Background

2. The CVAA requires the Commission to submit a biennial report to Congress on (1) the level of compliance with the CVAA's communications accessibility obligations found in sections 255, 716, and 718 of the Communications Act of 1934, as amended (the Act); (2) the extent to which accessibility barriers still exist with respect to new communications technologies; (3) the effect of the recordkeeping and enforcement requirements on the development and deployment of new communications technologies; and (4) information about complaints received by the Commission alleging violations of sections 255, 716, and 718.⁴ The Commission submitted biennial reports to Congress in

¹ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.); Pub. L. No. 111-265, 124 Stat. 2795 (2010). The Bureau is preparing this biennial report pursuant to delegated authority. 47 CFR § 0.361.

² See 47 U.S.C. § 618(b)(1).

³ *Id.*

⁴ 47 U.S.C. § 618(b)(1); see also 47 U.S.C. §§ 255, 617, 619.

2012, 2014, 2016, and 2018.⁵ After we receive comments in response to this Notice, the Bureau will prepare and seek comment on tentative findings for the 2020 report.⁶

3. Section 255 and the Commission's implementing regulations require telecommunications and interconnected voice over Internet protocol (VoIP) service providers and equipment manufacturers to make their services and equipment accessible to and usable by people with disabilities, if readily achievable.⁷ The Commission has defined services covered under section 255 to include local and long distance telephone service, call waiting, speed dialing, call forwarding, computer-provided directory assistance, call monitoring, caller identification, call tracing, and repeat dialing.⁸ Equipment covered under section 255 includes, but is not limited to, customer premises equipment such as wireline, cordless, and wireless telephones, fax machines, and answering machines.⁹ In addition, the Commission's section 255 rules cover voicemail and interactive voice response systems (voice systems that provide callers with menus of choices).¹⁰

4. Section 716 of the Act requires ACS providers and equipment manufacturers to make their services and equipment accessible to and usable by people with disabilities, unless doing so is not achievable.¹¹ These requirements apply to providers of non-interconnected VoIP services, electronic messaging services, and interoperable video conferencing services, and to manufacturers of equipment used with these services.¹² Section 718 of the Act requires Internet browsers built into mobile phones to be accessible to and usable by people who are blind or visually impaired, if achievable.¹³ Section 717 of the Act requires covered entities to keep records of their efforts to implement sections 255, 716, and 718.¹⁴ Section 717 also requires the Commission to investigate informal complaints alleging violations of these provisions and to issue orders on the outcomes of these investigations within 180 days of their filing.¹⁵ Before filing an informal complaint under this section, a consumer must submit a "request for dispute assistance" (RDA) with the FCC's Disability Rights Office, which works with the consumer and

⁵ *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, 27 FCC Rcd 12204 (2012) (2012 CVAA Biennial Report); *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, 29 FCC Rcd 11909 (2014) (2014 CVAA Biennial Report); *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, 31 FCC Rcd 11065 (2016) (2016 CVAA Biennial Report); *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, 33 FCC Rcd 9828 (2018) (2018 CVAA Biennial Report).

⁶ See 47 U.S.C. § 618(b)(2).

⁷ 47 U.S.C. § 255; 47 CFR Parts 6, 7. The Act defines "telecommunications" as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." 47 U.S.C. § 153(50). It defines "telecommunications service" as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. § 153(53). "Interconnected VoIP service" enables people to make *and* receive calls over the Internet and the traditional telephone network and is defined in the Commission's rules as a service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network (PSTN) and terminate calls to the PSTN. 47 CFR § 9.3; see also 47 U.S.C. § 153(25). For purposes of Part 6, "the term telecommunications service shall include 'interconnected VoIP service' as that term is defined in § 9.3."

the service provider or equipment manufacturer for a minimum of 30 days to resolve the accessibility problem.¹⁶

III. Compliance with Sections 255, 716, and 718

5. *Accessibility.* We seek comment on the current level of compliance with sections 255 and 716 to make telecommunications and ACS, as well as equipment used with these services, accessible by people with disabilities.¹⁷ Are the input, control, and mechanical functions of telecommunications and advanced communications services and equipment locatable, identifiable, and operable (1) without vision, hearing, speech, or color perception; (2) with limited vision, hearing, color perception, manual dexterity, reach and strength, or cognitive skills; (3) with prosthetic devices; and (4) without time-dependent controls? How easy is it to locate accessible services and devices? Are services and devices that include different features, functions, and prices all accessible to people with disabilities? Where services and devices are not accessible, to what extent do service providers and manufacturers make them compatible with peripheral devices and specialized customer premises equipment commonly used by people with disabilities to achieve access?¹⁸

6. We also seek comment on any new developments on the issues and conclusions that the Bureau considered in the *2018 CVAA Biennial Report*. In that report, the Bureau concluded that “there have been continued improvements in the accessibility of telecommunications and advanced communications services and equipment,”¹⁹ but noted that “some accessibility gaps remain.”²⁰ The Bureau found: “(1) the emerging availability of enterprise interconnected VoIP telephones with built-in accessibility features for people who are blind or visually impaired; (2) improved access to the telecommunications and ACS features of smartphones and other devices for people with a wide range of disabilities; and (3) an increased percentage of hearing aid compatible (HAC) wireless handsets.”²¹

47 CFR § 6.3(k). When accessibility to these services is not readily achievable (defined as “easily accomplishable and able to be carried out without much difficulty or expense”), covered entities must ensure that their services and equipment are compatible with existing peripheral devices or specialized equipment commonly used by people with disabilities to achieve access, if readily achievable. 47 U.S.C. § 255(d); 42 U.S.C. § 12181(9) (defining “readily achievable”).

⁸ *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6449, para. 77 (1999) (*Section 255 Order*). See also 47 CFR Part 6.

⁹ The Communications Act defines “telecommunications equipment,” as “equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).” 47 U.S.C. § 153(52). It defines “customer premises equipment” as “equipment employed on the premises of a person (other than a carrier) to originate, route or terminate telecommunications.” 47 U.S.C. § 153(16).

¹⁰ *Section 255 Order*, 16 FCC Rcd at 6455-62, paras. 93-108; 47 CFR Part 7.

¹¹ 47 U.S.C. § 617. See also 47 U.S.C. § 153(1) (defining ACS as “(A) interconnected VoIP service; (B) non-interconnected VoIP service; (C) electronic messaging service; and (D) interoperable video conferencing service”). Although the Act’s definition of ACS also includes interconnected VoIP service, the accessibility obligations of interconnected VoIP service providers and equipment manufacturers are governed by the requirements of section 255 of the Act. See 47 U.S.C. §§ 255, 617(f). Section 716 of the Act defines “achievable” to mean with reasonable effort or expense, listing four factors the Commission must consider when making such determinations. 47 U.S.C. § 617(g).

¹² See 47 U.S.C. § 617(a)-(b), (g). Non-interconnected VoIP services include services that enable people to make *or* receive calls over the Internet and the telephone system or enable real-time voice communications solely over the Internet. 47 U.S.C. § 153(36). Electronic messaging services, such as e-mail, SMS text messaging, and instant

7. The Bureau also found that “gaps continue to exist with respect to (1) the availability of accessible mobile phones with low-end features, functions, and prices (collectively, non-smartphones), (2) the existence of accessible alerting features on video calls, and (3) the availability of accessible telecommunications and ACS devices for people who are deafblind.”²² In addition, complaints received by the Bureau suggested that software upgrades may create accessibility barriers if covered entities do not test such upgrades for accessibility prior to deployment.²³ We thus also seek comment regarding developments since the Bureau reached these conclusions.

8. We also seek input on the level of compliance with the obligations of section 718 of the Act to make Internet browsers built into mobile phones accessible for people who are blind or visually impaired.²⁴ Are the input, control, and mechanical functions of Internet browsers built into mobile phones locatable, identifiable, and operable by people without vision or with limited vision? Are accessible Internet browsers offered in mobile phones across a range of low-end and high-end features, functions, and prices? How easy is it to find such phones? In the *2018 CVAA Biennial Report*, the Bureau found that “the accessibility of Internet browsers built into mobile phones has continued to improve due to the incorporation of better screen readers, improvements in speech-to-text engines, and new accessibility features built into the operating systems of the phones” and by implementing mobile browser compatibility with braille displays.²⁵ The Bureau noted that voice assistance platforms such as Alexa, Siri and Google Assistant have transformed the way that people who are blind communicate with both peers and smart devices.²⁶ We invite comment on these and other developments from the past two years.

9. *Inclusion of People with Disabilities in Product and Service Design and Development.* In 2018, the Bureau concluded that covered entities continue to include people with disabilities in product and service design and development.²⁷ In particular, the Bureau noted instances where covered entities had engaged consumers in developing apps that convert text to braille but also noted comments stating that covered entities had not engaged the deafblind community when redesigning products.²⁸ We seek

messaging, enable real-time or near real-time text messages between people over communications networks. 47 U.S.C. § 153(19). *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14574, para. 43 (2011) (*ACS Report and Order and ACS FNPRM*). Interoperable video conferencing services are real-time video communications, including audio, to enable users to share information of the user’s choosing. 47 U.S.C. § 153(27).

¹³ 47 U.S.C. § 619; *see also Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, Second Report and Order, 28 FCC Rcd 5957 (2013) (*ACS Second Report and Order*).

¹⁴ 47 U.S.C. § 618(a)(5)(A). These records must include information about their efforts to consult with people with disabilities, descriptions of the accessibility features of their products and services, and information about the compatibility of these products and services with peripheral devices or specialized customer premises equipment commonly used by people with disabilities to achieve access. *Id.*; *see also* 47 CFR § 13.41(a).

¹⁵ 47 U.S.C. § 618(a)(3)(B).

¹⁶ *See* 47 CFR § 14.32.

¹⁷ *See* 47 CFR §§ 6.3(a), 7.3(a), 14.21(b).

¹⁸ *See* 47 CFR §§ 6.3(b), 7.3(b), 14.20(a)(3).

¹⁹ *2018 CVAA Biennial Report*, 33 FCC Rcd at 9832, para. 8.

²⁰ *Id.* at 9832, para. 7.

comment on the extent to which manufacturers and service providers have included people with disabilities and consumer disability organizations in their market research, product design, testing, pilot demonstrations, and product trials since the *2018 CVAA Biennial Report*.²⁹

10. *Usability: Information, Documentation, and Training.* In addition to requiring accessibility, sections 255, 716, and 718 require telecommunications, ACS, and Internet browsers built into mobile phones to be *usable by* people with disabilities, i.e., to provide accessible information and documentation for the product or service, including instructions, product or service information (including information on accessibility features), customer service, and technical support.³⁰ In the *2018 CVAA Biennial Report*, the Bureau found continued improvements in the usability of services and equipment that are subject to sections 255, 716, or 718.³¹ The Bureau based this finding on reports that covered entities are offering an increasing number of ways for consumers to locate accessibility assistance—for example, by including more information related to covered products and services on their websites and expanding their accessibility training to their customer care representatives.³² The Bureau also found that some consumers could not find information or customer service to help them locate accessible devices and services and that user guides and other documentation are not accessible to people who are deafblind.³³ In addition, people with disabilities are not always able to activate the accessibility features on their phones without assistance from others.³⁴

11. We seek updated information on the extent to which telecommunications and advanced communications services providers and manufacturers are ensuring the usability of their offerings through, for example, accessible user guides, bills, installation guides, and product support communications.³⁵ To what extent are service providers and equipment manufacturers covered under section 718 ensuring access to information and documentation about the Internet browsers that are built into their mobile phones?³⁶ Are companies providing user guides, documentation, and other information in braille and other alternate formats? Are companies training their customer service representatives, technical support personnel, sales personnel, and others having direct contact with the public on the accessibility of their products and services?

²¹ *Id.* at 9832, para. 8.

²² *Id.* at 9834, para. 12.

²³ *Id.*

²⁴ See 47 CFR § 14.21(b)(1)(i)-(iii), (b)(2)(i)-(iii), (b)(2)(vii).

²⁵ *2018 CVAA Biennial Report*, 33 FCC Rcd at 9837, para. 18.

²⁶ *Id.*

²⁷ *Id.* at 9838, para. 21.

²⁸ *Id.*

²⁹ See 47 CFR §§ 6.7(b), 7.7(b), 14.31(a)(1).

³⁰ See 47 CFR §§ 6.3(l), 7.3(l), 14.21(c); see also 47 CFR §§ 6.11, 7.11, 14.20(d), 14.60(b)(4).

³¹ *2018 CVAA Biennial Report*, 33 FCC Rcd at 9837, para. 19.

³² *Id.*

³³ *Id.* at 9837-38, para. 20.

³⁴ *Id.* at 9837, para. 19.

³⁵ See 47 CFR §§ 6.11, 7.11, 14.21(c).

³⁶ See 47 CFR § 14.60(b)(4)-(5).

12. Finally, we seek comment on any other issues relevant to assessing the level of compliance with sections 255, 716, and 718 and the Commission’s implementing rules governing the accessibility and usability of telecommunications and advanced communications services and equipment, and Internet browsers built into mobile phones.

IV. Accessibility Barriers to New Communications Technologies

13. The CVAA requires the Commission to include, in its biennial report, an evaluation of the extent to which any accessibility barriers exist with respect to “new communications technologies.”³⁷ In the *2018 CVAA Biennial Report*, the Bureau noted the promise of new communications technologies such as 5G, RTT, text-to-911, HD voice, the Internet of Things, and Bluetooth, and also reported on concerns about whether virtual and augmented reality technologies are accessible.³⁸ We invite comment on developments in the accessibility of these new products and services.

14. Are there accessibility barriers to these or other new communications technologies? For example, do new smart speakers that incorporate telecommunications, ACS, and web browsing features have accessibility barriers? For ACS products and services that are in the pipeline, what steps are being undertaken to ensure their accessibility and usability?

V. Effect of Accessibility Recordkeeping and Enforcement Requirements

15. As required by the CVAA, we seek comment on the effect of the accessibility recordkeeping and enforcement requirements, which apply to entities that are subject to sections 255, 716, or 718, on the development and deployment of new communications technologies.³⁹ In 2018, the Bureau found nothing in the record to indicate that these recordkeeping and enforcement requirements had hindered the development and deployment of new communications technologies.⁴⁰ Has this changed in any way in the past two years?

VI. Procedural Matters

16. *Ex Parte Rules.* The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁴¹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native

³⁷ 47 U.S.C. § 618(b)(1)(B).

³⁸ *2018 CVAA Biennial Report*, 33 FCC Rcd at 9838, para. 21.

³⁹ See 47 U.S.C. § 618(b)(1)(G).

⁴⁰ *2018 CVAA Biennial Report*, 33 FCC Rcd at 9842, para. 34.

⁴¹ 47 CFR §§ 1.1200 *et seq.*

format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

17. *Filing Requirements.* Interested parties may file comments on or before the date indicated on the first page of this document.⁴² Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).⁴³ All comments should refer to **CG Docket No. 10-213**. Please title comments responsive to this Notice as "Public Notice Comments – Accessibility of Communications Technologies." Further, we strongly encourage parties to develop responses to this Notice that adhere to the organization and structure of the questions in this Notice.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

18. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

19. *Additional Information.* For further information regarding this Notice, contact Darryl Cooper, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-7131 or by e-mail to Darryl.Cooper@fcc.gov.

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⁴² 47 CFR §§ 1.415, 1.419.

⁴³ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).